

**LEGISLATIVE SERVICES AGENCY  
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

301 State House  
(317) 232-9855

**FISCAL IMPACT STATEMENT**

**LS 7721**

**BILL NUMBER: HB 2026**

**DATE PREPARED: Mar 6, 2001**

**BILL AMENDED: Mar 5, 2001**

**SUBJECT:** Fair Pricing for Prescription Drugs.

**FISCAL ANALYST:** Kathy Norris

**PHONE NUMBER:** 234-1360

**FUNDS AFFECTED:** X

X

**GENERAL  
DEDICATED  
FEDERAL**

**IMPACT:** State

**Summary of Legislation:** (Amended) This bill establishes the Rx Program to provide discounted prescription drug prices to uninsured residents of Indiana. The bill requires the State Department of Health to submit an annual report to the Legislative Council on the enrollment and financial status of the Rx Program before January 1 of each year. The bill also requires the State Department of Health to post certain information on its website.

The bill allows a drug manufacturer or labeler that sells prescription drugs in Indiana through any state-funded or state-operated program to enter into a rebate agreement with the Department that requires rebate payments to be made to the state for the Rx Program each calendar quarter.

The bill authorizes the State Department to negotiate the amount of the rebate required from a manufacturer or labeler. It requires the rebate to take effect not later than January 1, 2002.

It also establishes a formula for the state to use in calculating discount prices for drugs covered by the rebate agreement.

The bill requires a retail pharmacy to sell the drugs covered by the Rx Program to participants in the program at the discounted price determined by the state Department beginning July 1, 2002. It establishes a procedure for resolving discrepancies in rebate amounts.

The bill establishes the Rx Dedicated Fund, consisting of: (1) revenue from manufacturers and labelers who pay rebates; and (2) appropriations or allocations to the fund.

The bill also establishes that the terms of the rebate allow the Department to perform an audit of any manufacturer or labeler to determine compliance with the rebate agreement. If the manufacturer or labeler is not in compliance, the Department shall require a refund of the difference between the rebate agreement and the lowest price offered by the manufacturer or labeler as determined by the Department's formula. The

manufacturer or labeler would also be required to pay the cost of the audit if they are found to be out of compliance with the rebate agreement.

**Effective Date:** July 1, 2001.

**Explanation of State Expenditures:** (Revised) The State Department of Health estimates that 147 new staff positions would be needed to implement this new program at a cost of \$7.3 M the first year and \$7 M in the second year. These estimates do not include any new system development costs. In order to operate the Rx Program as described, the Department would need to have the infrastructure of the program administration in place upon enrollment of the first beneficiaries. (The bill requires retail pharmacies to be reimbursed within one week of the claim.) Rebate revenues are required on a quarterly basis. The necessary cash flow for program implementation would most likely need to be funded by the State General Fund.

The Kaiser Family Foundation reported that in 1996, 23% of the non-Medicare population and 31% of Medicare beneficiaries had no prescription drug coverage. Most of the non-elderly Americans without drug coverage were reported to have no health insurance at all. (*The data reported is prior to the implementation of the CHIP program in Indiana.*) Seniors lack drug coverage because Medicare does not cover outpatient prescription drugs and they do not have a private policy. Applying these percentages of individuals with no prescription drug coverage to Indiana population estimates for 1998, approximately 1.4 million Hoosiers (1,179,738 non-Medicare and 227,792 Medicare beneficiaries) would qualify for the Rx Program.

**Explanation of State Revenues:** In State FY 1999, the Medicaid Program reported 609,150 recipients and paid pharmacy claims of \$366,924,950. The total average recipient claim was approximately \$602.35 for the Medicaid population. For the same fiscal year, Medicaid reported total drug rebate payments of \$57,502,074. Rebates were approximately 15.67% of the total outpatient pharmacy claims or \$94.39 per recipient. If it is assumed that Medicaid outpatient pharmacy experience is applicable to the uninsured and under-insured population, the Rx Program rebates might produce annual revenue of \$132.9 M. After deducting administrative expenses, this would allow \$125.6 M, or \$89.71 per potential recipient, to be distributed as drug discounts.

**Explanation of Local Expenditures:**

**Explanation of Local Revenues:**

**State Agencies Affected:** Department of Health and Family and Social Services Administration, Office of Medicaid Policy and Planning.

**Local Agencies Affected:**

**Information Sources:** "Demographic Trend Report, Division of Family and Children Selected Assistance Programs for State Fiscal Year 1999". The Henry J. Kaiser Family Foundation "Prescription Drug Trends" Fact Sheet #3057 at the Kaiser Foundation web site at [www.kff.org](http://www.kff.org), Marilyn Cage, Legislative Liaison for the State Department of Health, (317) 233-2170. And U.S. Census population estimates at [www.census.org/statab/USA98/18/000.txt](http://www.census.org/statab/USA98/18/000.txt).